



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक ११]

मंगळवार, फेब्रुवारी २३, २०१६/फाल्गुन ४, शके १९३७

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असाधारण क्रमांक १३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Public trusts (Amendment) Ordinance, 2016 (Mah. Ord. No. IV of 2016), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

P. H. MALI,
Secretary (Legislation) to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Public Trusts (Amendment) Ordinance, 2016 (Mah. Ord. IV of 2016), published under the authority of the Governor.)

LAW AND JUDICIARY DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,

Mantralaya, Mumbai 400 032, dated the 23rd February 2016.

MAHARASHTRA ORDINANCE No. IV OF 2016.

AN ORDINANCE

further to amend the Maharashtra Public Trusts Act.

WHEREAS the Maharashtra Public Trusts (Amendment) Bill, 2015 was introduced in the Maharashtra Legislative Assembly as L.A. Bill No. LIX of 2015 on the 8th December 2015 in the winter session of the Maharashtra State Legislature ;

AND WHEREAS the said Bill could not be passed by both Houses of the State Legislature, as the said session of the State Legislature was prorogued on the 23rd December 2015 ;

AND WHEREAS both Houses of the State Legislature are not in session:

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Public Trusts Act, for the purposes hereinafter appearing; XXIX of 1950.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Short title
and commen-
cement.

1 (1) This Ordinance may be called the Maharashtra Public Trusts (Amendment) Ordinance, 2016.

(2) It shall come into force at once.

Amendment
of section 22
of XXIX of
1950.

2. In section 22 of the Maharashtra Public Trusts Act (hereinafter referred to as “the principal Act”), after sub-section (3), the following sub-sections shall be inserted, namely :— XXIX of 1950.

“ (3A) The Deputy or Assistant Charity Commissioner may, after such detailed and impartial inquiry and following such procedure as may be prescribed, de-register the trust on the following grounds :—

(a) when its purpose is completely fulfilled ; or

(b) when its purpose becomes unlawful ; or

(c) when the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise ; or

(d) when the trust, being revocable, is expressly revoked ; or

(e) when the trustees are found not doing any act for fulfilling object of the trust :

Provided that, no trust shall be de-registered under clause (e) unless its trustees have committed default in reporting the change under sub-section (1), in submission of the audited accounts as prescribed by sub-section (2) of section 33 or sub-section (1A) of section 34 or in making any other compliance prescribed by or under this Act for a period of five years from the last date of reporting the change, submission of the accounts or making the compliance, as prescribed by or under this Act or the rules made thereunder, as the case may be.

(3B) The Deputy or Assistant Charity Commissioner may take over the management of properties of the trust de-registered under sub-section (3A) and pass such necessary orders for the same as he deems fit and may, if he considers it expedient, dispose them of by sale or otherwise and deposit the sale proceeds in the Public Trusts Administration Fund established under section 57.”.

Amendment
of section
36A of XXIX
of 1950.

3. In section 36A of the principal Act, to sub-section (3), the following proviso shall be added, namely :—

“ Provided that, the Charity Commissioner or the Joint Charity Commissioner, as the case may be, shall decide the application for borrowing money from the Bank or Financial Institution forthwith and preferably within a period of fifteen days, if the Bank or the Financial Institution has provisionally sanctioned the loan.”.

STATEMENT

The Maharashtra Public Trusts Act (XXIX of 1950) regulates and makes better provisions for the administration of public and religious and charitable trusts in the State of Maharashtra. As per clause (13) of section 2 of the said Act, "public trust" means an express or constructive trust for either a public, religious or charitable purpose or both and includes a temple, a math, a wakf, church, synagogue, agiary or other place of public religious worship, a *Dharmaday* or any other religious charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860 (21 of 1860).

As per the provisions of the said Act, large number of trusts are registered in the State. It is noticed by the Charity Commissioner Office that, the trustees are not functioning properly and the trusts are also not functioning properly in more than three lakh public trusts. The Charity Commissioner Office has to examine the records of such trusts causing excessive burden. The provisions of the said Act for amalgamation of such trusts or winding-up of such trusts are found to be inadequate. For effective management of such trusts, it is expedient to confer powers on the Deputy and Assistant Charity Commissioner to deal with such trusts effectively. Accordingly, new sub-section (3A) is proposed to be inserted in section 22 of the said Act, on the lines of section 77 of the Indian Trusts Act, 1882 (2 of 1882), providing that the Deputy or Assistant Charity Commissioner may, after such detailed and impartial inquiry and following such procedure as may be prescribed, de-register the trust on the following grounds :—

- (a) when its purpose is completely fulfilled ; or
- (b) when its purpose becomes unlawful ; or
- (c) when the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise ; or
- (d) when the trust, being revocable, is expressly revoked ; or
- (e) when the trustees are found not doing any act for fulfilling object of the trust.

It is also proposed to provide that, no trust shall be de-registered under clause (e) unless its trustees have committed default in reporting the change under sub-section (1), in submission of the audited accounts as prescribed by sub-section (2) of section 33 or sub-section (1A) of section 34 or in making any other compliance prescribed by or under this Act for a period of five years from the last date of reporting the change, submission of the accounts or making the compliance, as prescribed by or under this Act or the rules made thereunder, as the case may be.

Consequent to the insertion of said sub-section (3A), it is also proposed to insert new sub-section (3B) in the said section 22, providing that the Deputy or Assistant Charity Commissioner may take over the management of properties of the trust de-registered under sub-section (3A) and pass such necessary orders for the same as he deems fit and may, if he considers it expedient, dispose them of by sale or otherwise and deposit the sale proceeds in the Public Trust Administration Fund established under section 57 of the said Act.

Sub-section (3) of section 36A of the said Act provides that, no trustee shall borrow moneys (whether by way of mortgage or otherwise) for the purpose of or on behalf of the trust of which he is a trustee, except with the previous sanction of the Charity Commissioner, and subject to such conditions and limitations as may be imposed by him in the interest or protection of the trust. The applications for granting such previous sanction for borrowing money remains pending in the Office of Charity Commissioner or Joint Charity Commissioner for longer period. Therefore, it is considered expedient to add proviso to sub-section (3), providing that the Charity Commissioner or the Joint Charity Commissioner, as the case may be, shall decide the application for borrowing money from the Bank or Financial Institution forthwith and preferably within a period of fifteen days, if the Bank or the Financial Institution has provisionally sanctioned the loan.

2. To achieve the above objectives, the Maharashtra Public Trusts (Amendment) Bill, 2015 was introduced in the Maharashtra Legislative Assembly as L.A. Bill No. LIX of 2015 on the 8th December 2015 in the winter session of the Maharashtra State Legislature. However, the said Bill could not be passed by both Houses of the State Legislature, as the said session of the State Legislature was prorogued on the 23rd December 2015. It is, therefore, considered expedient to carry out the said amendments in the Maharashtra Public Trusts Act (XXIX of 1950), immediately.

3. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Public Trusts Act (XXIX of 1950), for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,
Dated the 20th February 2016.

CH. VIDYASAGAR RAO,
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,
Secretary and Remembrancer of
Legal Affairs to Government.